

1 AN ACT relating to relating to Kentucky Employees Retirement System employers
2 and declaring an emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 61.5991 is amended to read as follows:

5 Except as otherwise provided by this section, the following shall apply to nonhazardous
6 employers in the Kentucky Employees Retirement System, who contributed to the system
7 in fiscal year 2019-2020 except in the case of county attorneys, who are local and district
8 health departments governed by KRS Chapter 212, state-supported universities and
9 community colleges, county attorneys, mental health/mental retardation boards, domestic
10 violence shelters, rape crisis centers, child advocacy centers, or any other agency that is
11 eligible to voluntarily cease participation in the Kentucky Employees Retirement System
12 as provided by KRS 61.522:

13 (1) (a) Each employer, except for county attorneys, shall report to the Authority for
14 each fiscal year occurring on or after July 1, 2021, the following persons for
15 which no employer contributions were paid by the employer to the system
16 during the fiscal year for services provided to the employer:

- 17 1. **Except as provided by paragraph (b)3. of this subsection,** persons
18 employed as an independent contractor, a leased employee, or via any
19 other employment arrangement as determined by the Authority, who if
20 employed directly by the employer would qualify as a regular full-time
21 employee in accordance with KRS 61.510(21); and
22 2. Persons employed directly by the employer who meet the definition of a
23 regular full-time employee in accordance with KRS 61.510(21), who are
24 not being reported to the system in accordance with KRS 61.675.

25 (b) The reporting required by this paragraph shall:

- 26 1. Be reported in a format, detail, and frequency as determined solely by
27 the Authority;

- 1 2. Except as provided by subparagraph 3. of this paragraph, include
 2 persons providing services to the employer as an independent contractor,
 3 a leased employee, or via any other employment arrangement as
 4 determined by the Authority, and those services have historically been
 5 provided or are currently being provided by employees eligible to
 6 participate in the system through the employer; and
- 7 3. Exclude:
- 8 a. Contracts for professional services that have not historically been
 9 provided by employees of the employer; ~~and~~
- 10 b. Any contracts entered into prior to January 1, 2021, with a person
 11 or company to provide services as an independent contractor, a
 12 leased employee, or other employment arrangement as determined
 13 by the Authority, but only for the duration of the original contract,
 14 excluding any renewal periods, and only for those services and
 15 persons included in the original contract, except as provided
 16 subdivision c. of this subparagraph; and
- 17 c. Contracts providing services through a non-core services
 18 independent contractor as defined in subsection (9) of this
 19 section, regardless of whether or not the contract was initiated
 20 before January 1, 2021, or on or after January 1, 2021.
- 21 (c) In any case of doubt, the Authority shall determine whether data should be
 22 reported on a specific person providing services to the employer and the
 23 Authority may by promulgation of administrative regulation provide guidance
 24 on which persons should be included for reporting purposes[-
- 25 ~~(d) If the Kentucky Public Pensions Authority determines a person who was not~~
 26 ~~reported to the system under this subsection should be reported to the system~~
 27 ~~as a regular full-time employee, the system shall require the employer covered~~

1 ~~by this section to report the employee on or after July 1, 2021, and pay~~
2 ~~employer contributions prospectively but shall not, notwithstanding any other~~
3 ~~statute to the contrary, bill the employer for any contributions or penalties for~~
4 ~~any service occurring prior to July 1, 2021, for that specific employee];~~

5 (2) (a) Notwithstanding any other provision of statute to the contrary, the Authority
6 shall:

7 1. Have full power, including any authority under KRS 61.685, to audit an
8 employer who is subject to the provisions of this section to ensure
9 compliance and accuracy of the data required to be reported by the
10 employer in accordance with this section; and

11 2. Perform audits on a percentage of employers who are subject to the
12 reporting requirements of this subsection, as determined by the board,
13 for the purpose of ensuring that all eligible employees are being
14 reported and contributions are being paid in accordance with KRS
15 61.510 to 61.705. The system shall have full power and authority,
16 including any authority and power granted under KRS 61.675 and
17 61.685, to accomplish the audits required by this subparagraph. An
18 audit time frame and schedule shall be adopted by the board, made
19 available to impacted employers, and reported to the Public Pension
20 Oversight Board.

21 (b) If the Authority determines an employer has knowingly falsified data required
22 to be reported under this section:

23 1. The Authority shall indicate in the annual report submitted in
24 accordance with subsection (3) of this section that the employer has
25 knowingly falsified data and shall include a brief summary of the
26 reasons for the Authority's determination;

27 2. The employer shall no longer be eligible to receive any future

1 appropriations or subsidies from the state to assist in paying employer
2 contributions to the system; and

3 3. The employer shall be required to pay back to the state any
4 appropriations or subsidies provided in the biennial executive branch
5 budget that were used to directly assist the employer in paying employer
6 contributions to the system on or after July 1, 2021.

7 (c) If an employer fails to submit the information required by this section or does
8 not comply with requests from the Authority regarding **this subsection and**
9 **subsection**~~subsections~~ (1) ~~and (2)~~ of this section to verify or audit the
10 employer's information:

11 1. The Authority shall indicate in the annual report submitted in
12 accordance with subsection (3) of this section that the employer is
13 noncompliant with the Authority's requests and shall include a brief
14 summary of the reasons for the Authority's determination; and

15 2. The employer may lose eligibility to receive any future appropriations or
16 subsidies from the state to assist in paying employer contributions to the
17 system, **except that if an employer does not comply with requests from**
18 **the Authority pursuant to an audit conducted in accordance with**
19 **paragraph (a)2. of this subsection the employer shall lose eligibility to**
20 **receive any future appropriations or subsidies from the state to assist**
21 **in paying employer contributions to the system until such time the**
22 **employer complies with the audit;**

23 (3) The Authority shall within sixty (60) days following the close of each fiscal year
24 occurring on or after July 1, 2021, determine and report the following to the state
25 budget director's office and the Legislative Research Commission for each employer
26 subject to this section, except for county attorneys:

27 (a) The number of regular full-time employees of the employer who were

- 1 reported to the system during the prior fiscal year for which contributions
2 were reported in accordance with KRS 61.675;
- 3 (b) The number of persons providing services to the employer under subsection
4 (1) of this section during the prior fiscal year who were not reported to the
5 system and for which no contributions were reported;
- 6 (c) A percentage computed by dividing the number of employees reported in
7 paragraph (a) of this subsection by the combined sum of the number of
8 employees and persons reported in paragraphs (a) and (b) of this subsection
9 and multiplying by one hundred (100); and
- 10 (d) The information required by subsection (2) of this section for any employer
11 who has been determined by the Authority to have knowingly falsified data or
12 is noncompliant in submitting the data required by this section to the
13 Authority;
- 14 (4) It is the intent of the General Assembly in fiscal years occurring on or after July 1,
15 2021, to provide appropriations for county attorneys for retirement costs in the
16 Kentucky Employees Retirement System that is equal to the difference between the
17 dollar value of actual contributions paid by the employer in fiscal year 2019-2020 to
18 the system and the dollar value of contributions projected to be paid by the
19 employer to the system in fiscal year 2021-2022;
- 20 (5) For fiscal year 2021-2022, it is the intent of the General Assembly to provide a
21 subsidy towards the retirement costs of employers covered by this section, except
22 for county attorneys who are provided a subsidy by subsection (4) of this section,
23 that is equal to the difference between the dollar value of actual contributions paid
24 by the employer to the system in fiscal year 2019-2020 and the dollar value of
25 contributions projected to be paid by the employer to the system in fiscal year 2021-
26 2022;
- 27 (6) It is the intent of the General Assembly that for fiscal years occurring on or after

1 July 1, 2022:

2 (a) To provide a subsidy towards the retirement costs of each employer subject to
3 this section, except for county attorneys who are provided a subsidy by
4 subsection (4) of this section, who has made efforts to increase or maintain the
5 number of employees reported to the system. Specifically, it is the intent of
6 the General Assembly to provide subsidies only to those employers who have
7 a percentage of employees reported to the system as specified by subsection
8 (3)(c) of this section, equal to or greater than:

- 9 1. Sixty percent (60%) for any subsidies provided in fiscal years occurring
10 on or after July 1, 2022, to June 30, 2024; and
- 11 2. Eighty percent (80%) for any subsidies provided in fiscal years occurring
12 on or after July 1, 2024.

13 Eligibility for a subsidy provided in each fiscal year of the budget shall be
14 based upon the most recent percentage of employees reported by the
15 Authority;

16 (b) For those employers eligible for a subsidy under paragraph (a) of this
17 subsection, to provide a subsidy that is equal to the dollar value of the subsidy
18 provided to the employer in fiscal year 2021-2022 multiplied by the following
19 percentage:

- 20 1. For local and district health departments governed by KRS Chapter 212,
21 state-supported universities and community colleges, and any other
22 employer subject to this section that has taxing or fee authority:
 - 23 a. Ninety percent (90%) in fiscal year 2022-2023;
 - 24 b. Eighty percent (80%) in fiscal year 2023-2024;
 - 25 c. Seventy percent (70%) in fiscal year 2024-2025;
 - 26 d. Sixty percent (60%) in fiscal year 2025-2026; and
 - 27 e. Fifty percent (50%) in fiscal years occurring on or after July 1,

- 1 2026; and
- 2 2. For any other employer who does not have taxing or fee authority:
- 3 a. Ninety percent (90%) in fiscal years 2022-2024; and
- 4 b. Seventy-five percent (75%) in fiscal years occurring on or after
- 5 July 1, 2024; and
- 6 (c) The subsidy provided by this subsection shall be adjusted to reflect the
- 7 assignment of liabilities based upon the appeal process in KRS
- 8 61.565(1)(d)5.;
- 9 (7) The Council on State Governments (CSG), the Kentucky Educational Television
- 10 (KET) Foundation, Association of Commonwealth's Attorneys, the Kentucky High
- 11 School Athletic Association (KHSAA), the Municipal Power Association of
- 12 Kentucky, the Kentucky Office of Bar Admissions, the Nursing Home Ombudsman,
- 13 the Kentucky Association of Regional Programs (KARP), and the Kentucky
- 14 Association of Sexual Assault Programs are, notwithstanding the provisions of
- 15 subsections (1) to (6) of this section, exempt from the reporting requirements and
- 16 from receiving a subsidy to assist in paying employer contribution rates; and
- 17 (8) The provisions of this section shall not obligate the General Assembly to provide
- 18 any specific level of subsidy to assist in paying employer contributions of any
- 19 employer covered by this section, and employers shall be responsible for any and all
- 20 future retirement contributions payable by the employer regardless of the actual
- 21 amount of subsidy included in future executive branch budgets.
- 22 **(9) For purposes of this section, "non-core services independent contractor" means**
- 23 **a company or business that is not owned or controlled, in whole or in part, by an**
- 24 **employer participating in the system, whose business is not limited to providing**
- 25 **services to one (1) or more employers participating in the system, but instead also**
- 26 **provides services to the general public or other public agencies not participating**
- 27 **in the system, which are limited to facilities services, grounds services, custodial**

1 services, bookstore services, dining services, construction services, trade or
2 maintenance services, health services for university students and employees of the
3 employer, information technology services, public relation services, photography
4 services, design services, safety services at universities, hospitality services,
5 entertainment production services, mail services, printing and copier services,
6 sports arena and stadium management, farrier services, assistive services at
7 universities such as interpreters or sign language services, or delivery services.

8 ➔Section 2. KRS 61.565 is amended to read as follows:

- 9 (1) (a) Each employer participating in the State Police Retirement System as
10 provided for in KRS 16.505 to 16.652 and the Kentucky Employees
11 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute
12 annually to the respective retirement system an amount determined by the
13 actuarial valuation completed in accordance with KRS 61.670 and as specified
14 by this section. Employer contributions for each respective retirement system
15 shall be equal to the sum of the "normal cost contribution" and the "actuarially
16 accrued liability contribution."
- 17 (b) For purposes of this section, the normal cost contribution shall be computed as
18 a percentage of pay and shall be an annual amount that is sufficient when
19 combined with employee contributions to fund benefits earned during the year
20 in the respective system. The amount shall be:
- 21 1. Paid as a percentage of creditable compensation reported for each
22 employee participating in the system and accruing benefits; and
 - 23 2. The same percentage of pay for all employees who are participating in
24 the same retirement system, except that separate percentage rates shall
25 be developed in each system for those employers whose employees are
26 participating in hazardous duty retirement coverage as provided by KRS
27 61.592.

- 1 (c) For purposes of this section, the actuarially accrued liability contribution for
2 all employers, except for contributions paid by nonhazardous employers in the
3 Kentucky Employees Retirement System on or after July 1, 2021, shall be:
- 4 1. Computed by amortizing the total unfunded actuarially accrued liability
5 of each system over a closed period of thirty (30) years beginning with
6 the 2019 actuarial valuation using the level percentage of payroll
7 amortization method, except that any increase or decrease in the
8 unfunded actuarially accrued liability occurring after the completion of
9 the 2019 actuarial valuation shall be amortized over a closed period of
10 twenty (20) years beginning with the actuarial valuation in which the
11 increase or decrease in the unfunded actuarially accrued liability is
12 recognized. An increase or decrease in the unfunded actuarially accrued
13 liability may result from, but not be limited to, legislative changes to
14 benefits, changes in actuarial methods or assumptions, or actuarial gains
15 or losses;
 - 16 2. Paid as a percentage of payroll on the creditable compensation reported
17 for each employee participating in the system and accruing benefits; and
 - 18 3. The same percentage of pay for all employees who are participating in
19 the same retirement system, except that separate percentage rates shall
20 be developed in each system for those employers whose employees are
21 participating in hazardous duty retirement coverage as provided by KRS
22 61.592.
- 23 (d) 1. For purposes of this section, the actuarially accrued liability contribution
24 for nonhazardous employers in the Kentucky Employees Retirement
25 System on or after July 1, 2021:
- 26 a. Shall be an annual dollar amount that is sufficient to amortize the
27 total unfunded actuarially accrued liability of the system over a

1 closed period of thirty (30) years beginning with the 2019 actuarial
2 valuation using the level percentage of payroll amortization
3 method, except that any increase or decrease in the unfunded
4 actuarially accrued liability occurring after the completion of the
5 2019 actuarial valuation shall be amortized over a closed period of
6 twenty (20) years beginning with the actuarial valuation in which
7 the increase or decrease in the unfunded actuarially accrued
8 liability is recognized. An increase or decrease in the unfunded
9 actuarially accrued liability may result from but not be limited to
10 legislative changes to benefits, changes in actuarial methods or
11 assumptions, or actuarial gains or losses;

12 b. Shall be prorated to each individual nonhazardous employer in the
13 Kentucky Employees Retirement System by multiplying the annual
14 dollar amount of the actuarially accrued liability contribution for
15 the system as determined by subdivision a. of this subparagraph by
16 the individual employer's percentage of the system's total
17 actuarially accrued liability as of the June 30, 2019, actuarial
18 valuation which shall be determined solely by the system's
19 consulting actuary and assigned to each employer based upon the
20 last participating employer of the member or retiree as of June 30,
21 2019. The individual employer's percentage of the system's total
22 actuarially accrued liability as of the June 30, 2019, actuarial
23 valuation shall be used to determine the individual employer's
24 prorated dollar amount of the system's actuarially accrued liability
25 contribution in all future fiscal years of the amortization period or
26 periods, except that the employer's percentage shall be adjusted to
27 reflect any employer who voluntarily or involuntarily ceases

1 participation as provided by KRS 61.522 and except as provided
2 by subparagraphs 4. and 5. of this paragraph. For purposes of this
3 subdivision, all executive branch departments, program cabinets
4 and their respective departments, and administrative bodies
5 enumerated in KRS 12.020, and any other executive branch
6 agencies administratively attached to a department, program
7 cabinet, or administrative body enumerated in KRS 12.020, shall
8 be considered a single individual employer and only one (1) value
9 shall be computed for these executive branch employers. For
10 purposes of this subdivision, all employers of the legislative
11 branch, including the Legislative Research Commission and the
12 General Assembly that covers legislators and staff who participate
13 in the Kentucky Employees Retirement System, shall be
14 considered a single individual employer and only one (1) value
15 shall be computed for these employers. For purposes of this
16 subdivision, all employers of the judicial branch, including the
17 Administrative Office of the Courts, the Judicial Form Retirement
18 System, and all master commissioners, shall be considered a single
19 individual employer and only one (1) value shall be computed for
20 these employers. Upon request by any nonhazardous employer
21 covered by this paragraph, the system shall, within ninety (90)
22 days of the employer's request, provide the requesting employer
23 with any:
24 i. Identifying, demographic, financial, or any other
25 information that was provided to the system's actuary to
26 determine the employer's share of the system's total
27 actuarially accrued liability, including individual data

1 provided to the actuary on each member, retiree, or
 2 recipient whose cost was assigned to the employer. The
 3 data shall also include identifying information that will
 4 allow the employer to match its records to the members,
 5 retirees, and recipients that resulted in the cost that has
 6 been assigned to the employer; and

7 ii. Calculations produced by the actuary on each member,
 8 retiree, or recipient during the completion of the valuation
 9 that resulted in the cost assigned to the employer under this
 10 paragraph. The data shall include identifying information
 11 that will allow the employer to match it's records to the
 12 members, retirees, and recipients that resulted in the cost
 13 that has been assigned to the employer;

14 c. Shall be payable by an individual employer in equal monthly dollar
 15 installments during the fiscal year in accordance with the reporting
 16 requirements specified by KRS 61.675 so that the individual
 17 employer pays its full prorated dollar amount of the actuarially
 18 accrued liability contribution as determined by subdivision b. of
 19 this subparagraph; and

20 d. Notwithstanding subdivision b. of this subparagraph for those
 21 individual participating employers who are local and district health
 22 departments governed by KRS Chapter 212, community mental
 23 health centers, and employers whose employees are not subject to
 24 KRS 18A.005 to 18A.200, who received or were eligible to
 25 receive a distribution of general fund appropriations in the 2018-
 26 2020 biennial executive branch budget to assist in paying
 27 retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5);

1 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch. 169,
2 Part I, G., 9., (2), shall not, once the initial dollar amounts are
3 established in accordance with this paragraph, be adjusted in terms
4 of dollars paid by the individual employer, except that adjustments
5 shall be made by the system upon completion of an actuarial
6 investigation as provided by KRS 61.670, so long as at least four
7 (4) years have passed since the last adjustment to the actuarially
8 accrued liability contribution for these employers. The provisions
9 of this subdivision shall not be interpreted to mean that employers
10 described by this subdivision may continue paying the dollar value
11 of contributions or employer contribution rates established or paid
12 by the employer in budget periods occurring prior to July 1, 2021.

13 2. Individual employers, solely for purposes of collecting employer
14 contributions from various fund sources during the fiscal year, may
15 convert the actuarially accrued liability contribution established by this
16 paragraph to a percentage of pay and may adjust the percent of pay
17 during the fiscal year in order to pay the required dollar value of
18 actuarially accrued liability contribution required by this paragraph. No
19 provision of this subparagraph shall be construed to reduce an individual
20 employer's actuarially accrued liability contribution as otherwise
21 provided by this paragraph.

22 3. The provisions of this paragraph shall not apply to those employers who
23 cease participation as provided by KRS 61.522.

24 4. In the event an individual Kentucky Employees Retirement System
25 nonhazardous employer who is required to pay an actuarially accrued
26 liability contribution as provided by this paragraph and as calculated
27 from the 2019 actuarial valuation or subsequent valuations, merges with

1 another employer or entity, forms a new or separate employer or entity,
2 or splits or separates operations into multiple employers or entities, the
3 system shall, except for those employers or entities who pay the costs to
4 cease participation as provided by KRS 61.522, have full authority to
5 assign a portion or all of the total actuarially accrued liability
6 contribution to the merged, new, split, or separate employers or entities,
7 regardless of whether or not the merged, new, split, or separate
8 employers or entities participate in the system. In the case of a district
9 health department established pursuant to KRS Chapter 212, which
10 ceases to operate or which has a county or counties that withdraw from
11 the district health department, the systems shall assign the total
12 actuarially accrued liability contribution based upon the proportion of
13 taxable property of each county as certified by the Department for Public
14 Health in the Cabinet for Health and Family Services in accordance with
15 KRS 212.132. The system shall establish by administrative regulations
16 the process of assigning actuarially accrued liability contributions as
17 authorized by this subparagraph.

- 18 5. a. An employer who is not in the executive, legislative, or judicial
19 branch of Kentucky state government as enumerated in
20 subparagraph 1.b. of this paragraph may on or before July 1, 2021,
21 appeal to the board regarding any current or former employees or
22 retirees the employer believes should not be used to determine the
23 employer's percentage of the system's total actuarially accrued
24 liability. The only appeals that shall be submitted by the employer
25 or considered by the board shall be potential errors where the last
26 participating employer is in dispute, situations where employees of
27 the employer were hired through a contract between the executive

1 branch and the employer for the employee to provide services to
2 the executive branch, or situations where a community mental
3 health center was contracted to provide services at a facility
4 previously operated by the executive branch. The employer shall
5 submit the information required by the board to verify potential
6 errors or contract employees with employers.

7 b. The board shall review and issue a final determination regarding
8 any appeals by December 31, 2021. In situations where the board
9 determines the last participating employer was incorrect and
10 should be assigned to another employer, the system shall, effective
11 for employer contributions payable on or after July 1, 2022, assign
12 the cost to the executive branch until such time ownership of the
13 liability can be determined and assigned to the correct employer. In
14 situations where the board determines certain employees of
15 employers were hired through a contract between the executive
16 branch and the employer for an employee or employees to provide
17 services to the executive branch, those liabilities shall, effective for
18 employer contributions payable on or after July 1, 2022, be
19 assigned to the executive branch. In situations where the board
20 determines the community mental health center was contracted to
21 provide services at a facility previously operated by the executive
22 branch, the liabilities for employees providing services at that
23 facility shall be assigned to the executive branch.

24 c. No appeal shall be submitted by the employer or considered by the
25 board regarding the assumptions or methodology used by the
26 actuary to determine a particular employer's percentage of the
27 system's total actuarially accrued liability or the use of the last

1 participating employer to assign liabilities to an employer, except
2 as otherwise provided by this subparagraph.

3 d. The board shall within thirty (30) days following the final
4 determinations submit to the Public Pension Oversight Board the
5 list of appeals that were approved, the number of employees
6 involved, and any costs that will be transferred to the executive
7 branch effective July 1, 2022.

8 (e) The employer contributions computed under this section shall be determined
9 using:

- 10 1. The entry age normal cost funding method;
- 11 2. An asset smoothing method that smooths investment gains and losses
12 over a five (5) year period; and
- 13 3. Other funding methods and assumptions established by the board in
14 accordance with KRS 61.670.

15 (2) (a) Except as limited by subsection (1)(d)1.d. of this section as it relates to the
16 Kentucky Employees Retirement System, normal cost contribution rates and
17 the actuarially accrued liability contribution shall be determined by the board
18 on the basis of the annual actuarial valuation last preceding the July 1 of a new
19 biennium.

20 (b) The board shall not have the authority to amend contribution rates as of July 1
21 of the second year of the biennium for the Kentucky Employees Retirement
22 System and the State Police Retirement System.

23 (3) The system shall advise each employer prior to July 1 of any change in the employer
24 contribution rate. Based on the employer contribution rate, each employer shall
25 include in the budget sufficient funds to pay the employer contributions as
26 determined by the board under this section.

27 (4) All employers, including the General Assembly, shall pay the full actuarially

1 required contributions, as prescribed by this section, to the Kentucky Employees
2 Retirement System and the State Police Retirement System in fiscal years occurring
3 on or after July 1, 2020.

4 ➔Section 3. KRS 61.661 is amended to read as follows:

5 (1) (a) Each current, former, or retired member's account shall be administered in a
6 confidential manner, and specific data regarding a current, former, or retired
7 member shall not be released for publication, except that:

8 1. The member or recipient may authorize the release of his or her account
9 information;

10 2. Kentucky Retirement Systems may release account information to the
11 employer or to other state and federal agencies as it deems necessary or
12 in response to a lawful subpoena or order issued by a court of law,

13 *except that Kentucky Retirement Systems shall be required to release*
14 *account information to the employer as required by subsection*
15 *(1)(d)1.b. of Section 2 of this Act;* or

16 3. a. Upon request by any person, the systems shall release the
17 following information from the accounts of any member or retired
18 member of the Kentucky Employees Retirement System, the
19 County Employees Retirement System, or the State Police
20 Retirement System, if the member or retired member is a current
21 or former officeholder in the Kentucky General Assembly:

22 i. The first and last name of the member or retired member;

23 ii. The system or systems in which the member has an account
24 or from which the retired member is receiving a monthly
25 retirement allowance;

26 iii. The status of the member or retired member, including but
27 not limited to whether he or she is a contributing member, a

- 1 member who is not currently contributing to the systems but
2 has not retired, a retired member, or a retired member who
3 has returned to work following retirement with an agency
4 participating in the systems;
- 5 iv. If the individual is a retired member, the monthly retirement
6 allowance that he or she was receiving at the end of the most
7 recently completed fiscal year;
- 8 v. If the individual is a member who has not yet retired, the
9 estimated monthly retirement allowance that he or she is
10 eligible to receive at his or her normal retirement date based
11 upon his or her service credit, final compensation, and
12 accumulated account balance at the end of the most recently
13 completed fiscal year; and
- 14 vi. The current employer or last participating employer of the
15 member or retired member, if applicable.
- 16 b. No information shall be disclosed under this subparagraph from an
17 account that is paying benefits to a beneficiary due to the death of
18 a member or retired member.
- 19 (b) A current, former, or retired member's account shall be exempt from the
20 provisions of KRS 171.410 to 171.990.
- 21 (c) The release of information under paragraph (a)3. of this subsection shall not
22 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- 23 (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement
24 Systems, requiring production of any specific data regarding a current, former,
25 or retired member, it is sufficient if the employee of the Kentucky Retirement
26 Systems charged with the responsibility of being custodian of the original
27 delivers within five (5) working days, by certified mail or by personal

1 delivery, legible and durable copies of records, certified by the employee, or
2 an affidavit stating the information required by the subpoena to the person
3 specified in the subpoena. The production of documents or an affidavit shall
4 be in lieu of any personal testimony of any employee of the Kentucky
5 Retirement Systems unless, after the production of documents or affidavit, a
6 separate subpoena is served upon the systems specifically directing the
7 testimony of an employee of the systems. When a subpoena is served on any
8 employee of the systems requiring the employee to give deposition for any
9 purpose, in the absence of a court order requiring the deposition of a specific
10 employee, the systems may designate an employee to be deposed upon the
11 matter referred to in the subpoena.

12 (b) The certification required by this subsection shall be signed before a notary
13 public by the employee and shall include the full name of the member or
14 recipient, the member's or recipient's Social Security number, and a legend
15 substantially to the following effect: "The records are true and complete
16 reproductions of the original or microfiched records which are housed in the
17 retirement systems office. This certification is given in lieu of his or her
18 personal appearance."

19 (c) When an affidavit or copies of records are personally delivered, a receipt shall
20 be presented to the person receiving the records for his signature and shall be
21 immediately signed and returned to the person delivering the records. When
22 an affidavit or copies of records are sent via certified mail, the receipt used by
23 the postal authorities shall be sufficient to prove delivery and receipt of the
24 affidavit or copies of records.

25 (d) When the affidavit or copies of records are delivered to a party for use in
26 deposition, they shall, after termination of the deposition, be delivered
27 personally or by certified mail to the clerk of the court or other body before

1 which the action or proceeding is pending. It shall be the responsibility of the
2 party or attorney to transmit the receipt obtained to the employee of the
3 Kentucky Retirement Systems charged with responsibility of being custodian
4 of the original. Upon issuance of a final order terminating the case and after
5 the normal retention period for court records expires, the affidavit or copies of
6 records shall be permanently disposed of by the clerk in a manner that protects
7 the confidentiality of the information contained therein.

8 (e) Records of the Kentucky Retirement Systems that are susceptible to
9 photostatic reproduction may be proved as to foundation, identity, and
10 authenticity without any preliminary testimony, by use of legible and durable
11 copies, certified in accordance with the provisions of this subsection.

12 ➔Section 4. The amendments to Sections 1 to 3 of this Act shall be retroactive to
13 July 1, 2021.

14 ➔Section 5. Whereas ensuring the efficient operation of the Kentucky Employees
15 Retirement System is critical to the Commonwealth of Kentucky and to members,
16 retirees, and employers of the system, an emergency is declared to exist, and this Act
17 takes effect upon its passage and approval by the Governor or upon its otherwise
18 becoming law.